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**FAX TRANSMITTAL**

**DATE:** August 17, 2007

**TO:** Examiner David Bucci  
United States Patent and Trademark Office

**FAX PHONE NO.:** (571) 273-8300

**FROM:** Jeffrey B. Haendler

**RE:** AEROSOL DELIVERY SYSTEMS AND METHODS

**Appl. No.** 10/587,814

**OUR FILE:** 6395-68278-03

**NO. OF PAGES** 4 (including this cover page)

**PLEASE ACKNOWLEDGE RECEIPT BY RETURN FACSIMILE?** ☐ Yes ☒ No

**CONFIRMATION TO FOLLOW?** ☐ Yes ☒ No

**CONTACT INFO:** If you do not receive all pages or if you have problems receiving transmittal, please call us at (503) 595-5300 as soon as possible and ask for Christine M. Wolfe.

**MESSAGE:** A Renewed Petition to Make Special Based on Manufacture Under 37 CFR § 1.102(d) and MPEP § 708.02(1) was filed with the PTO on January 26, 2007 (a copy of which is attached). Since then we have received no communication from the PTO. Please advise as to the status of this petition as soon as possible.

THE INFORMATION CONTAINED IN THIS TRANSMISSION IS CONFIDENTIAL AND ONLY FOR THE INTENDED RECIPIENT IDENTIFIED ABOVE. IF YOU ARE NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION OR USE OF THIS COMMUNICATION IS UNLAWFUL. IF YOU HAVE RECEIVED THIS TRANSMISSION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE (COLLECT), RETURN THE ORIGINAL MESSAGE TO US, AND RETAIN NO COPY.

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AUG 17 2007

JBH:cmw 1/26/07 6395-68278-03 643157 1-034-99

PATENT  
Attorney Reference Number 6395-68278-03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Papania et al.

Application No. 10/587,814

Filed: July 28, 2006

Confirmation No. 5324

For: AEROSOL DELIVERY SYSTEMS AND  
METHODS

Examiner: Not Yet Assigned

Art Unit: 1615

Attorney Reference No. 6395-68278-03

CERTIFICATE OF MAILING

I hereby certify that this paper and the documents referred to as being attached or enclosed herewith are being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: MAIL STOP PETITION, COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450 on the date shown below.

Attorney or Agent  
for Applicant(s)

Date Mailed January 26, 2007

MAIL STOP PETITION  
COMMISSIONER FOR PATENTS  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450

TRANSMITTAL LETTER

Enclosed for filing in the application referenced above are the following:

- ☒ Renewed Petition To Make Special Based On Manufacture Under 37 CFR § 1.102(d) And MPEP § 708.02(I).
- ☒ The Director is hereby authorized to charge any fees that may be required, or credit overpayment, to Deposit Account No. 02-4550. A copy of this sheet is enclosed.
- ☒ Please return the enclosed postcard to confirm that the items listed above have been received.

Respectfully submitted,

KLARQUIST SPARKMAN, LLP

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By

Jeffrey B. Haendler  
Registration No. 43,652

cc: Docketing

TRANSMITTAL - Page 1 of 1

JBH:jbb 01/26/07 642331  
PATENTAttorney Reference Number 6395-68278-03  
Application Number 10/587,814RECEIVED  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE CENTRAL FAX CENTER

In re application of: Papania et al.

Application No. 10/587,814

Filed: July 28, 2006

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For: AEROSOL DELIVERY SYSTEMS AND  
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Examiner: Not Yet Assigned

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Attorney or Agent  
for Applicant(s)

Date Mailed January 26, 2007

MAIL STOP PETITION  
COMMISSIONER FOR PATENTS  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450RENEWED PETITION TO MAKE SPECIAL BASED ON MANUFACTURE  
UNDER 37 CFR § 1.102(d) AND MPEP § 708.02(I)

This responds to the December 21, 2006 Decision of the Patent Office denying Applicants' "Petition to Make Special Based on Manufacture under MPEP § 708.02(I)" filed on July 28, 2006. Applicants respectfully request reconsideration of that Decision.

The Decision states that Applicants' petition to make special fails to meet the requirements of MPEP § 708.02(I)(A) because it fails to state the approximate amount of capital in possession of the prospective manufacturer. Applicants disagree that the petition fails to satisfy the requirement under MPEP § 708.02(I)(A).

MPEP § 708.02(I)(A) provides that a petition to make special based on manufacturing must allege: (i) "the possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity" or (ii) "that sufficient capital and facilities will be made available if a patent is granted." Thus, a petition to make special need not specify the amount of capital in possession of the prospective manufacturer if the petition states that sufficient capital and facilities will be made available if a patent is granted.

Applicants' petition states: "AerovecRx asserts that it has sufficient capital through outside investors and facilities to manufacture the invention in quantity to be made available to

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PATENT

Attorney Reference Number 6395-68278-03  
Application Number 10/587,814

AerovecRx if a patent is granted." Applicants submit that the foregoing statement satisfies the requirement under MPEP § 708.02(I)(A), and therefore the petition to make special should be granted.

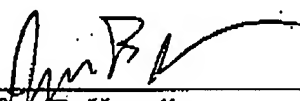
Please charge any fees that may be required in connection with filing this petition, or credit any overpayment, to Deposit Account No. 02-4550. A copy of this sheet is enclosed.

Respectfully submitted,

KLARQUIST SPARKMAN, LLP

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